

**MINUTES OF THE CITY OF LAS VEGAS SPECIAL CITY COUNCIL MEETING HELD ON  
WEDNESDAY, FEBRUARY 5, 2020 AT 5:30 P.M. IN THE CITY OF LAS VEGAS  
COUNCIL CHAMBERS**

**MAYOR:** Vincent Howell

**COUNCILORS:** David G. Romero  
Barbara A. Casey  
David A. Ulibarri, Jr.

**ALSO PRESENT:** Ann Marie Gallegos, Interim City Manager  
Casandra Fresquez, City Clerk  
Esther Garduno Montoya, City Attorney  
David T. Bibb III, Sergeant at Arms

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

Councilor Ulibarri, Jr. asked that we keep in mind the residents and the homeless, he hoped that they would be warm and fed and asked to pray for those in our community that we had recently lost.

**APPROVAL OF AGENDA**

Councilor Casey made a motion to approve the agenda as presented. Councilor Ulibarri, Jr. seconded the motion. Mayor Howell asked for roll call. Roll Call Vote was taken and reflected the following:

David G. Romero	Yes	David A. Ulibarri, Jr.	Yes
Barbara A. Casey	Yes		

City Clerk Fresquez re-read the motion and advised that the motion carried.

## **PUBLIC INPUT**

Arthur Gallegos spoke in detail regarding the Water Sharing agreement and of concerns pertaining to water agreements with Storrie Project. Mr. Gallegos strongly urged the Council to stay informed about the proceedings regarding doing away with the 1835 priority and ending litigation.

Gabe Estrada was thankful for the opportunity for the Acequias and the City to work together on the water sharing agreement remand and hoped everyone would come with open minds and positive attitudes in order to serve our citizens.

## **BUSINESS ITEMS**

1. Approval/Disapproval of Resolution 20-05 acknowledging additional liability of debt in the amount of \$3,808,000.00, plus any amount remaining in the existing repayment agreement from non-federal sources.

Interim City Manager Ann Marie Gallegos advised that approximately 30 days ago the City had received an assessment report indicating that a Resolution needed to be provided to Albuquerque HUD Office in 30 days, to acknowledge the debt of \$3,808,000.00. She stated that HUD had assessed the City of Las Vegas for demolition of homes that occurred in 2004. She advised that she provided a copy of Resolution 20-05 with HUD recommendations for the resolution and the acknowledgement of the liability.

City Clerk Fresquez read the amended Resolution 20-05 into the record.

Councilor Casey advised that she had a problem with the opening statement, due to the fact that this Council had nothing to do with the illegal sale of those houses and stated she would not vote for this unless the date of the illegal sale would be added, so when you read it, it would be known that this governing body was not responsible for the illegal sale of the property but that it was the responsibility of previous governing body. She also stated that there was nothing in the Resolution stating the terms of the new agreement regarding the timeline of payment.

Interim City Manager Gallegos advised that the first order would be to accept the liability of the \$3,808,000.00 and thereafter the City would meet with HUD once again to work out the repayment agreement between the City of Las Vegas and HUD and that would come at a later date. She deferred the question to City



Attorney Garduno Montoya regarding the change of acknowledging that it occurred in the fiscal year 2004.

City Attorney Garduno Montoya advised that a default first occurred in 2004 when the City diverted federal assets from its homeownership program and that in light of that, recommended inserting the year 2004.

Councilor Casey asked if the remaining amount of \$422,000.00 should also be included in the resolution.

Brief discussion took place regarding the amount remaining in the existing repayment agreement.

Interim City Manager Gallegos advised that it could be added to the resolution.

Councilor Romero asked for clarification regarding the date of sales of the homes and the repayment plan amounts.

Discussion took place regarding the amounts paid, updated balances and language corrections to the resolution.

Interim City Manager Gallegos made the clarification of the changes to the resolution to be: document the \$400,000.00, acknowledge what has been paid, date of payments made and balance amount.

Mayor Howell asked for the timeline of submitting the signed resolution with amendments to HUD.

Interim City Manager Gallegos advised that they were prepared to work on it that evening, obtain the Mayor's signature and submit to HUD the next morning.

Councilor Casey asked if it was possible to table the item and while they would go through the rest of the business items, the City Attorney could work on the changes and bring it back in order to vote on it tonight so it would be ready to send in the morning.

Councilor Casey made a motion to temporarily table Resolution 20-05 for the time it would take City Attorney to add the amendments discussed this evening.

Councilor Romero seconded the motion. Mayor Howell asked for roll call. Roll Call Vote was taken and reflected the following:

David A. Ulibarri, Jr.	Yes	Barbara A. Casey	Yes
David G. Romero	Yes		

City Clerk Fresquez re-read the motion and advised the motion carried.

2. Approval/Disapproval to appoint Mr. Mark Saiz, Councilor, Ward II, upon the recommendation of the Mayor of the City of Las Vegas.

Mayor Vincent Howell advised that as per the City of Las Vegas Municipal Charter, Article II, Section 2.05 Vacancy in Office. C. The Mayor, with approval of the Council, shall within fifteen (15) days of the vacancy appoint a qualified elector from the district to fill the vacancy and who will serve until the next regular election. If the office is not filled within (45) days of vacancy, a special election shall be called to fill the vacancy for the remaining term of office. He stated it was his responsibility to appoint personnel to sit on Ward 2 seat until the new election and asked when the new Councilor would take the seat.

City Clerk Fresquez advised that the election would take place March 3rd and the Councilor would take his seat on April 1st as he was unopposed.

Mayor Howell stated that it was his pleasure and honor to appoint Mr. Mark Saiz and read a brief bio about him.

Mr. Mark Saiz stated that this Council did not know too much about him although was honored that Mayor Howell considered him for the seat. He advised that he touched up on several City Council meetings although he had no illusions of being able to do alot for the City in such a short time as he wished. Mr. Saiz stated that if the Council had a problem with his appointment he would understand, there would be no ill feelings on his part and he would be glad to help our City in anyway.

Councilor Ulibarri, Jr. stated that he did not agree with Mayor Howell's appointment due to the election coming up, he felt that a new Councilor would not be able to make decisions regarding upcoming agenda items and felt that the person who applied for Councilor should be in the seat.



Mayor Howell stated that at the last meeting, Councilor Ulibarri's concern was the dollar value of payment to Mr. Saiz and reminded him that he would be receiving the same payment as he did as Councilor. He advised there would only be two meetings in February with only one as a voting meeting and that he wanted to appoint Mr. Saiz for his high integrity and passion for the City of Las Vegas and that Councilor Ulibarri, Jr. concerns should not be a problem although appreciated his comment.

Councilor Casey advised that at the last meeting this item was tabled and that they were out of order as the item should have been removed off the table and made the next order of business. Councilor Casey made a motion to remove the appointment of Councilor Mark Saiz for Ward 2 off the table and make it the next order of business. Councilor Romero seconded the motion. Mayor Howell asked for roll call. Roll Call Vote was taken and reflected the following:

David G. Romero	Yes	David A. Ulibarri, Jr.	Yes
Barbara A. Casey	Yes		

City Clerk Fresquez re-read the motion and advised that the motion carried.

Councilor Romero thanked Mr. Saiz and expressed his respect for Mayor Howell and stated his concerns with the appointment and felt Michael Montoya would be of more benefit to the seat of Ward 2.

Mr. Saiz stated that whatever the Council would decide, he would continue to serve the City, as he had been.

Discussion continued regarding the placement of Council Ward 2 seat.

Councilor Casey made a motion to approve the appointment of Mr. Saiz for Council Ward 2 for the period until April 1st when Mr. Montoya would take the seat.

Mayor Howell asked for a second motion. No second motion was made, the motion died.

Mayor Howell apologized to Mr. Saiz for the situation at hand and stated that Mr. Saiz was his appointment and Mr. Montoya was not. He stated that Mr. Montoya was a good man, that he had worked with him in his district and that he had four

years coming to give his input and energy to the community and knew he would do very well. He asked what would happen if the appointment would not be made after the 45 days were up and would it fall outside his timeframe and asked for clarification.

Interim City Manager Gallegos advised a Special Election would be needed and that the timeframe fell around 4-5 days after election and deferred his concerns to City Clerk Fresquez.

City Clerk Fresquez stated that it should be deferred to the City Attorney (*absent*) and she was not sure how that would be handled and read for the record from the Las Vegas Municipal Charter, Section 2.05 Vacancy in Office C. *The Mayor, with approval of the Council, shall within fifteen (15) days of the vacancy appoint a qualified elector from the district to fill the vacancy and who will serve until the next regular municipal election. If the office is not filled within forty-five (45) days of the vacancy, a special election shall be called to fill the vacancy for the remaining term of office.* She advised that the time frame would fall within or close to the March 3rd election.

### 3. Discussion with acequia members.

Acequia member William Gonzales presented a detailed presentation regarding the issues of Remand Litigation, Location of the City of Las Vegas point of diversion. He also had lengthy discussion pertaining to the background and the beginnings of "The Remand" litigation. He stated on behalf of Acequia members, they asked for participation from the governing body, to consider all that had already been lost and work on how they can reverse this adversarial relationship. Acequia members were once again asking the governing body, in good faith, to consider the benefits of withdrawing their claim to an 1835 priority date and bring litigation to an end.

Utilities Director Maria Gilvarry informed that the City of Las Vegas had 800 acre feet of water at Storrie Lake and not 1,000 as stated and that 400 acre feet had been used in 2018 and 400 acre feet in 2019. She spoke briefly of the community's water needs and agreed that the water sharing agreement that had been used for the last couple of years had been working although there were still some needs of the City that had not been met but they would work towards meeting those needs.



Lengthy discussion took place regarding the water sharing schedule being used by the City and the Acequias.

Councilor Ulibarri, Jr. asked how many members were in the Acequias and did non-members also use the acequias.

Acequia member William Gonzales informed that the numbers varied with different ditches and stated that any use by non-members would be monitored by the Water Master and that they worked in conjunction with him regarding non-member use of the acequias.

Lengthy discussion continued regarding occurrences during drought situations, previous sharing water agreements, meeting water needs and Acequia priority water rights.

Mr. Gonzales clarified regarding if the City did not get the 1835 and in the event of a serious drought, in previous water sharing agreements with the City, the Acequias basically said to the City that they had the assurance from them to never call priority on the City and that it was basically working to where they would not call priority on each other. He added if the river would drop to 4cfs, which was very dry, the Acequias and the City had already agreed that the City could have the entire flow of the river.

Councilor Ulibarri, Jr. stated that he felt that the Council should get with the City's Water Attorneys for more information and go from there.

Utilities Director Gilvarry clarified that the City had committed to leaving 1 cfs for the health of the river and discussed meeting the City's water needs and refilling storage.

Lengthy discussion and questions took place regarding previous agreements between the City of Las Vegas and resolving issues without a court assigned mediator.

Questions were asked about the conditions of Peterson and Bradner Dams.

Utilities Director Gilvarry informed that they were working on the Peterson Dam Plan and Design project within City funding, that they were looking at a five year

project and that Peterson would not come off line until Bradner was completely operational.

Councilor Romero stated that they had not received the information requested from the water attorneys regarding updates on the proposals between the city and acequias.

Interim City Manager Gallegos advised that they would provide that information to the Council tomorrow.

Discussion and questions took place regarding the agreement under the Mayor Marquez administration and the current agreement.

Mr. Gonzales advised that there was not much difference, only the water rotation had changed and explained in detail the current rotation schedule that included 7 days on 7 day off for the Acequias and the City 3 days on and 3 days off the river. He advised that the rotation schedule on the sharing agreement was currently in draft form and would provide a copy to Council to review and give their input.

Lengthy discussion took place of past water rights adjudication that had occurred and how it had affected the agricultural community, bringing it to the point of collapsing and also discussed was the importance of keeping agriculture alive in this community.

Councilor Casey asked if there was a possibility to meet again with the Acequia members to work out a water sharing plan, so that they could together, present it to the judge and arbitrators in March.

Utilities Director Gilvarry advised that one of the things that was stated by the State Engineers and the Water Master, was that the judge would not dictate to them how to manage the river and they would be the deciding party because it had already been tasked to the Water Master. She stated that the State Engineer had a big part in how the river was managed.

Councilor Casey stated "So what you are saying is, no we can't and they are going to do it for us?"



Utilities Director Gilvarry informed that discussion could always take place although at the same time the State Engineer would not be dictated on how to manage the river.

Mr. Gonzales discussed past water sharing agreements with court oversight and explained that State Engineers were resistant to having the oversight of the court monitoring what they were doing.

Lengthy discussion took place regarding the Council having a public meeting with the Acequia members and then meeting with water attorneys and mediators.

There was a consensus from the Council regarding having a public meeting with the Acequia members in a public meeting and then meeting with water attorneys and mediators.

Councilor Casey made a motion to remove Business Item #1, Resolution 20-05 off the table for the next order of business. Councilor Romero seconded the motion. Mayor Howell asked for roll call. Roll Call Vote was taken and reflected the following:

David A. Ulibarri, Jr.	Yes	David G. Romero	Yes
Barbara A. Casey	Yes		

City Clerk Fresquez re-read the motion and advised that the motion carried.

City Attorney Garduno Montoya presented Resolution 20-05 with all the changes requested by Council.

Councilor Casey made a motion to approve amended Resolution 20-05 that incorporated all the changes that were discussed earlier. Councilor Ulibarri, Jr. seconded the motion.

Resolution 20-05 was presented as follows:

**STATE OF NEW MEXICO  
MUNICIPALITY OF CITY OF LAS VEGAS  
RESOLUTION NO 20-05  
2019-2020 ACKNOWLEDGEMENT OF LIABILITY  
AND FINANCIAL ASSESSMENT**

**WHEREAS**, the Governing Body in and for the Municipality of the City of Las Vegas (City), State of New Mexico, hereby acknowledges the Housing and Urban Development's (HUD) Quality Assurance Subsystem (QASS's) report detailing the sale of properties covered by the Annual Contributions Contract (ACC) to ineligible buyers in the year 2004 in violation of HUD requirements, and the unsold units that remain off-line and in disrepair, and

**WHEREAS**, the City and HUD entered into a repayment agreement in February 2016, for the diverted sale proceeds, in the amount of \$611,082, of which a balance in the amount of \$90,425 will remain as of June 30, 2020, and

**WHEREAS**, the City must restore \$3,808,000.00 plus the remaining amount of \$90,425 in the existing repayment agreement, to its low rent public housing program, and all contributions must be made from non-federal sources, and

**WHEREAS**, the City must immediately correct all books of account to properly record a contingent liability in the amount of \$3,808,000.00, to conform to the requirements of the ACC and GAAP accounting standards, and

**WHEREAS**, the City recognizes that the amounts repaid are considered federal funds and are restricted to eligible uses under the Low Rent Public Housing rules and regulations, and

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, that the Governing Body of the Municipality of the City of Las Vegas, State of New Mexico, hereby acknowledges its liability.

RESOLVED: In session this \_\_\_\_th day of February, 2020.

MUNICIPAL GOVERNING BODY  
LAS VEGAS, NEW MEXICO

\_\_\_\_\_  
VINCE HOWELL, MAYOR

ATTEST:

\_\_\_\_\_  
CASANDRA FRESQUEZ,

Mayor Howell asked for roll call. Roll Call Vote was taken and reflected the following:



David G. Romero	Yes	Barbara A. Casey	Yes
David A. Ulibarri, Jr.	Yes		

City Clerk Fresquez re-read the motion and advised that the motion carried.

### **EXECUTIVE SESSION**

Interim City Manager Gallegos advised there was no need for Executive Session.

### **ADJOURN**

Councilor Casey made a motion to adjourn. Councilor Ulibarri, Jr. seconded the motion. Mayor Howell asked for roll call. Roll Call Vote was taken and reflected the following:

David A. Ulibarri, Jr.	Yes	David G. Romero	Yes
Barbara A. Casey	Yes		

City Clerk Fresquez re-read the motion and advised that the motion carried.

  
\_\_\_\_\_  
Mayor Vincent Howell

ATTEST:

  
\_\_\_\_\_  
Casandra Fresquez, City Clerk